

BEFORE THE  
UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Market Dominant Product Prices  
Inbound Market Dominant Multi-Service Agreements  
with Foreign Postal Operators  
PostNL–United States Postal Service Bilateral  
Agreement (MC2010-35)  
Negotiated Service Agreement

Docket No. R2015-3

PUBLIC REPRESENTATIVE ADDITIONAL COMMENTS IN RESPONSE  
TO COMMISSION ORDER NO. 2293 APPROVING  
TYPE 2 RATE ADJUSTMENT FOR ROYAL POSTNL BV  
NEGOTIATED SERVICE AGREEMENT

(December 23, 2014)

On December 17, 2014, the Commission approved the inbound portion of a bilateral agreement with Royal PostNL BV (PostNL) to be included within the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 (Multi-Service Agreements) product.<sup>1</sup> The bilateral agreement with PostNL (PostNL 2014 Agreement) establishes negotiated rates for inbound letterpost during the two-year period, January 1, 2015, to December 31, 2016, unless terminated sooner.<sup>2</sup>

The PostNL 2014 Agreement is similar to several bilateral agreements previously approved by the Commission, and included within the inbound market dominant Multi-Service Agreements product, which also feature two-year terms. Those agreements, concluded with the Australian Postal Corporation (Australia Post) and the Canada Post Corporation (Canada Post), establish negotiated rates for inbound letterpost during the

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<sup>1</sup> Order No. 2293, Order Approving an Additional Inbound Market Dominant Multi-Service Agreement with Foreign Postal Operators 1 Negotiated Service Agreement (with Royal PostNL BV), December 17, 2014.

<sup>2</sup> United States Postal Service Notice of Type 2 Rate Adjustment, Notice of Filing Functionally Equivalent Agreement and Application for Nonpublic Treatment, November 14, 2014 (Notice), Attachment 2 at 10.

two-year period, January 1, 2014, to December 31, 2015.<sup>3</sup> A third agreement, concluded with Hongkong Post (Hongkong Post), establishes negotiated rates for inbound letterpost during the one-year period, March 1, 2014, to February 28, 2015.<sup>4</sup> The Hongkong Post 2014 Agreement also requires that prior to the expiration of this period, the parties re-evaluate whether to extend the agreement for another year or otherwise modify the agreement.<sup>5</sup>

In its Orders approving the Australia Post and Canada Post agreements, the Commission noted that:<sup>6</sup>

. . . UPU default rates (for use in the cost coverage test) have been published for Calendar Year (CY) 2014, but not for CY 2015, which constitutes the second year of the Agreement's term. Once the UPU default rates for CY 2015 become available, the Postal Service shall promptly supplement its filing in this case to confirm that cost coverage under the negotiated rates for CY 2015 is greater than the cost coverage under UPU default rates.

Unlike its Orders approving the Australia Post, Canada Post, and Hongkong Post agreements, however, Order No. 2293 does not require the Postal Service to make a similar supplemental filing to confirm that the cost coverage for the PostNL 2014 Agreement under the negotiated rates for CY 2016 is greater than the cost coverage under 2016 UPU default rates.

## COMMENTS

The Public Representative seeks clarification as to whether the Commission intends that the Postal Service supplement the financial model for the PostNL 2014

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<sup>3</sup> Order No. 1931, Order Approving an Additional Inbound Market Dominant Multi-Service Agreement with Foreign Postal Operators 1 Negotiated Service Agreement (with Australian Postal Corporation), December 30, 2013 (Australia Post 2014 Agreement); and Order No. 1940, Order Approving an Additional Inbound Market Dominant Multi-Service Agreement with Foreign Postal Operators 1 Negotiated Service Agreement (with Canada Post Corporation), December 31, 2013 (Canada Post 2014 Agreement).

<sup>4</sup> Order No. 1981, Order Approving an Additional Inbound Market Dominant Multi-Service Agreement with Foreign Postal Operators 1 Negotiated Service Agreement (with Hongkong Post), January 29, 2014 (Hongkong Post 2014 Agreement).

<sup>5</sup> United States Postal Service Notice of Type 2 Rate Adjustment, and Notice of Filing Functionally Equivalent Agreement, December 24, 2013, Attachment 2 at 6.

<sup>6</sup> Order Nos. 1931 and 1940 at 9, respectively. With respect to the Hongkong Post 2014 Agreement, nearly identical text appears in Order No. 1981 at 7.

Agreement with the 2016 UPU terminal dues default rates, once the 2016 rates become available. As the Commission is aware, Order No. 2293 approving the PostNL 2014 Agreement was based upon a Postal Service estimate of UPU default rates for CY 2016 because such default rates have not been published by the UPU. It is the Public Representative's opinion that the Commission should order the supplemental filing of the 2016 UPU default rates.

A Commission order directing the Postal Service to make a supplemental filing of the 2016 UPU default rates in order to update financial model for the PostNL 2014 Agreement would be consistent with Commission orders for the previously approved Australia Post, Canada Post, and Hongkong Post agreements.<sup>7</sup> More importantly, the supplemental filing of the 2016 UPU default rates is necessary to facilitate Commission fulfillment of its statutory obligations. 39 U.S.C. § 3622(c)(10)(A)(i) and 39 C.F.R. § 3010.40(a)(1). Such a supplemental filing would permit the Commission to again apply the cost coverage test to evaluate whether the cost coverage at the negotiated rates applicable to CY 2016 is greater than the cost coverage at the 2016 UPU default rates. Thus, the Commission is able to determine whether the negotiated rates of the PostNL 2014 Agreement in 2016 constitute an improvement over the 2016 UPU default rates and therefore improve the net financial position of the Postal Service during the second year of the PostNL 2014 Agreement.

In response to Order Nos. 1931, 1940 and 1981 approving the Australia Post, Canada Post and Hongkong Post agreements, respectively, the Postal Service has filed the supplemental information requested by the Commission.<sup>8</sup> This suggests that the information is readily available, and that the Postal Service would not find a Commission order directing the supplemental filing of the 2016 UPU default rates burdensome or objectionable. (Note: Following the Postal Service's responses to the above

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<sup>7</sup> Given the continued likelihood of additional inbound market dominant multi-service agreements with two-year terms, the Commission may wish to consider a revision to its permanent rules requiring the supplemental filing of UPU default rates applicable to the second-year of such agreements, once the UPU default rates become available upon issuance by the UPU.

<sup>8</sup> United States Postal Service Response to Order No. 1931 Concerning Updated Universal Postal Union Terminal Dues Rates, August 18, 2014; United States Postal Service Response to Order No. 1940 Concerning Updated Universal Postal Union Terminal Dues Rates, August 18, 2014; and, United States Postal Service Response to Order No. 1981 Concerning Updated Universal Postal Union Terminal Dues Rates, August 18, 2014.

referenced orders, the Commission has “closed the loop” on these agreements by giving notice of the supplemental filing and stating that no further action by the Commission is required.<sup>9</sup>)

The Public Representative respectfully submits the foregoing comments, and requests that the Commission order the supplemental filing as described.

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<sup>9</sup> See, for example, Commission notice concerning Hongkong Post 2014 Agreement; Notice Concerning Updated Universal Postal Union Terminal Dues Rates, September 16, 2014, Docket No. R2014-4.